

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

| | | |
|---------------------------------|---|-----------------------------------|
| M. WILLIAM POTTS, |) | |
| |) | |
| Petitioner, |) | |
| |) | Civ. Action No. 04-CV-40068 (GAO) |
| v. |) | |
| |) | |
| DAVID L. WINN, Warden, |) | |
| Federal Medical Center, Devens, |) | |
| |) | |
| Respondent. |) | |
| |) | |

DECLARATION OF PATRICK W. WARD

I, Patrick W. Ward, hereby make the following declaration:

1. I am employed by the United States Department of Justice, Federal Bureau of Prisons, at the Federal Medical Center in Devens, Massachusetts (FMC Devens), as an Attorney Advisor. The legal office, from which I am located, is the Consolidated Legal Center - Devens. I have been employed at this position since approximately March 24, 2002.
2. Petitioner M. William Potts III, Reg. Number 24866-038, is currently serving a sentence of twenty one (21) months at the Federal Prison Camp in Devens, Massachusetts. See Attached Document A, Sentence Monitoring Computation Data. His Projected Release Date is June 11, 2005. His Pre-release Preparation Date (10% date) is April 18, 2005.
3. Petitioner Potts had previously been considered for Community Corrections Center (CCC) Placement and is approved for a CCC placement to the Correctional Alternatives Center in Lawrence, Massachusetts for April 19, 2005 (at his 10% date). See Attached Document B, Inmate Profile.
4. As a result of the decision and judgment in Goldings v. Winn, No. 03-2633 (1st Cir., September 9, 2004), FMC Devens has initiated a new policy of review and consideration for CCC placement recommendations. See Attached Document C, Memorandum For Inmate Population (October 18, 2004). These reconsiderations and initial reviews will be done consistent with the practice and policy in existence at FMC Devens prior to December 20, 2002, under which FMC Devens exercised discretion to recommend CCC placements in excess of the last 10% of a sentence (not to exceed six months).

5. Because Petitioner Potts has an existing CCC placement, which was approved based upon the 10% limitation, his case is currently being reconsidered pursuant to the October 18, 2004 Memorandum. On or about October 25, 2004, a new Institutional Referral for CCC Placement form was completed and forwarded through Warden Winn to the Community Corrections Manager in Boston, MA. See Attached Document D, Institutional Referral For CCC Placement (Dated 10/25/04). On this form, the Unit Team and Warden Winn specifically requested a new CCC date "beyond his pre-release date but not to exceed 120 days" and to "issue the earliest available placement date." See Document D, at paragraph 12. At the time of this declaration, a new CCC placement date has not yet been approved.
6. It should be noted that the maximum potential CCC placement is 180 days. There is no guarantee of a 180 day placement. Based upon prior policy and practice at FMC Devens, a sentence of 21 months would not necessarily result in a full 180 day placement.

I declare the foregoing is true and correct to the best of my knowledge and belief, and given under penalty of perjury pursuant to 28 U.S.C. § 1746.

Executed this 5th day of November, 2004.

A handwritten signature in black ink, reading "Patrick W. Ward", written over a horizontal line.

Patrick W. Ward
Attorney Advisor
Consolidated Legal Center - Devens

DOCUMENT A

| | | | |
|----------------|---------------------|---|------------|
| DEVEN 540*23 * | SENTENCE MONITORING | * | 11-05-2004 |
| PAGE 001 * | COMPUTATION DATA | * | 10:13:38 |
| | AS OF 11-05-2004 | | |

REGNO.: 24866-038 NAME: POTTS, M WILLIAM III

| | |
|------------------------|---------------------------|
| FBI NO.....: 352721DC3 | DATE OF BIRTH: 11-27-1952 |
| ARS1.....: DEV/A-DES | |
| UNIT.....: I UNIT | QUARTERS.....: I01-058U |
| DETAINERS.....: NO | NOTIFICATIONS: NO |

PRE-RELEASE PREPARATION DATE: 04-18-2005

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 06-11-2005 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: MASSACHUSETTS
DOCKET NUMBER.....: 1: 03 CR 10240 -001
JUDGE.....: O'TOOLE
DATE SENTENCED/PROBATION IMPOSED: 11-03-2003
DATE COMMITTED.....: 12-03-2003
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

| | | | | |
|-----------------|---------------|----------------|---------|----------------|
| | FELONY ASSESS | MISDMNR ASSESS | FINES | COSTS |
| NON-COMMITTED.: | \$100.00 | \$00.00 | \$00.00 | \$00.00 |
| RESTITUTION...: | PROPERTY: NO | SERVICES: NO | AMOUNT: | \$1,357,603.00 |

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 150
OFF/CHG: 18:1341 MAIL FRAUD

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 21 MONTHS
TERM OF SUPERVISION.....: 3 YEARS
DATE OF OFFENSE.....: 07-31-2000

G0002 MORE PAGES TO FOLLOW . . .

DEVEN 540*23 * SENTENCE MONITORING * 11-05-2004
PAGE 002 OF 002 * COMPUTATION DATA * 10:13:38
AS OF 11-05-2004

REGNO...: 24866-038 NAME: POTTS, M WILLIAM III

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 12-03-2003 AT DEV AUTOMATICALLY

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 12-03-2003
TOTAL TERM IN EFFECT.....: 21 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 1 YEARS 9 MONTHS
EARLIEST DATE OF OFFENSE.....: 07-31-2000

JAIL CREDIT.....: FROM DATE THRU DATE
08-04-2003 08-04-2003

TOTAL PRIOR CREDIT TIME.....: 1
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 82
TOTAL GCT EARNED.....: 0
STATUTORY RELEASE DATE PROJECTED: 06-11-2005
SIX MONTH /10% DATE.....: N/A
EXPIRATION FULL TERM DATE.....: 09-01-2005

PROJECTED SATISFACTION DATE.....: 06-11-2005
PROJECTED SATISFACTION METHOD...: GCT REL

REMARKS.....: ARRESTED ON 8-4-03 AND RELEASED ON BOND THE SAME DAY.
VOLUNTARY SURRENDER TO F.M.C. DEVENS ON 12-3-03.

S0055 NO PRIOR SENTENCE DATA EXISTS FOR THIS INMATE

DOCUMENT B

24866-038 REG
REGNO: 24866-038 FUNCTION: DIS DOB/AGE.: 11-27-1952 / 51
NAME.: POTTS, M WILLIAM III R/S/ETH.: W/M/O
RSP.: DEV-DEVENS FMC MILEAGE.: 21 MILES
PHONE: 978-796-1000 FAX: 978-796-1118
PROJ REL METHOD: GOOD CONDUCT TIME RELEASE FBI NO...: 352721DC3
PROJ REL DATE...: 06-11-2005 INS NO...: N/A
PAR ELIG DATE...: N/A SSN.....: 043504045
PAR HEAR DATE...: PSYCH: NO DETAINER: NO CMC...: NO
FACL CATEGORY - - - - - CURRENT ASSIGNMENT - - - - - EFF DATE TIME
DEV ADM-REL A-DES DESIGNATED, AT ASSIGNED FACIL 12-03-2003 1231
DEV CASEWORKER CSW I I. BENET-RIVERA, EXT. 1522 12-03-2003 1231
DEV QUARTERS I01-058U HOUSE I/RANGE 01/BED 058U 05-11-2004 1123
DEV UNIT I UNIT N. PATTERSON, U/M, EXT. 1523 12-03-2003 1231
DEV WRK DETAIL CMP LAND LANDSCAPE - JENKINS 12-29-2003 0001
OFFN/CHG RMKS: 18:1341: MAIL FRAUD- 21 MOS CBOP W/3 YRS SRT
OFFN/CHG RMKS: 1: 03 CR 10240 -001 -GAO

G0002 MORE PAGES TO FOLLOW . . .

24866-038 REG
 REGNO: 24866-038 FUNCTION: DIS DOB/AGE.: 11-27-1952 / 51
 NAME.: POTTS, M WILLIAM III R/S/ETH.: W/M/O
 RSP.: DEV-DEVENS FMC MILEAGE.: 21 MILES
 PHONE: 978-796-1000 FAX: 978-796-1118

| FACIL | CATEGORY | - - - - - | CURRENT ASSIGNMENT | - - - - - | EFF DATE | TIME |
|-------|-------------|------------|--------------------------------|-----------|------------|------|
| DEV | ADM-REL | A-DES | DESIGNATED, AT ASSIGNED FACIL | | 12-03-2003 | 1231 |
| DEV | CARE LEVEL | CARE2 | STABLE, CHRONIC CARE | | 11-07-2003 | 1459 |
| DEV | COR COUNSL | CCC I | TOM O'CONNOR,EXT.1521 | | 12-03-2003 | 1231 |
| DEV | CASE MGT | PROG RPT | NEXT PROGRESS REPORT DUE DATE | | 02-11-2005 | 1359 |
| DEV | CASE MGT | RPP COMPLT | RELEASE PREP PGM COMPLETE | | 12-22-2003 | 1704 |
| DEV | CASE MGT | RPP UNT C | RELEASE PREP UNIT PGM COMPLETE | | 06-09-2004 | 1350 |
| DEV | CASE MGT | V94 COA913 | V94 CURR OTHER ON/AFTER 91394 | | 12-19-2003 | 1358 |
| DEV | CASEWORKER | CSW I | I. BENET-RIVERA,EXT. 1522 | | 12-03-2003 | 1231 |
| DEV | CUSTODY | COM | COMMUNITY CUSTODY | | 06-14-2004 | 0856 |
| DEV | DRUG PGMS | DRG I NONE | NO DRUG INTERVIEW REQUIRED | | 12-19-2003 | 1402 |
| DEV | DESTINATION | CBN 1DT | CORR ALT CTR LAWRENCE MA | | 04-19-2005 | 1450 |
| DEV | EDUCATION | C BUDDHISM | HISTORY OF BUDDHISM | | 07-11-2004 | 0919 |
| DEV | EDUC INFO | ESL HAS | ENGLISH PROFICIENT | | 12-15-2003 | 1139 |
| DEV | EDUC INFO | GED HAS | COMPLETED GED OR HS DIPLOMA | | 12-15-2003 | 1139 |

G0002 MORE PAGES TO FOLLOW . . .

24866-038

REG

REGNO: 24866-038

FUNCTION: DIS DOB/AGE.: 11-27-1952 / 51

NAME.: POTTS, M WILLIAM III

R/S/ETH.: W/M/O

RSP.: DEV-DEVENS FMC

MILEAGE.: 21 MILES

PHONE: 978-796-1000

FAX: 978-796-1118

| FACI | CATEGORY | - - - - - | CURRENT ASSIGNMENT | - - - - - | EFF DATE | TIME |
|------|------------|------------|--------------------------------|-----------|------------|------|
| DEV | FIN RESP | PART | FINANC RESP-PARTICIPATES | | 12-10-2003 | 1303 |
| DEV | LEVEL | MINIMUM | SECURITY CLASSIFICAT'N MINIMUM | | 11-07-2003 | 1459 |
| DEV | MED DY ST | REG DUTY | NO MEDICAL RESTR--REGULAR DUTY | | 12-17-2003 | 1013 |
| DEV | MED DY ST | YES F/S | CLEARED FOR FOOD SERVICE | | 12-17-2003 | 1013 |
| DEV | PGM REVIEW | DEC | DECEMBER PROGRAM REVIEW | | 12-07-2004 | 1443 |
| DEV | QUARTERS | I01-058U | HOUSE I/RANGE 01/BED 058U | | 05-11-2004 | 1123 |
| DEV | RELIGION | NO PREFER | NO PREFERENCE | | 12-19-2003 | 1357 |
| DEV | UNIT | I UNIT | N. PATTERSON,U/M, EXT. 1523 | | 12-03-2003 | 1231 |
| DEV | WAITNG LST | COMP I A&O | COMPLETED INSTITUTION A&O | | 12-22-2003 | 1430 |
| DEV | WRK DETAIL | CMP LAND | LANDSCAPE - JENKINS | | 12-29-2003 | 0001 |

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

DOCUMENT C



U.S. Department of Justice

Federal Bureau of Prisons

Federal Medical Center, Devens

*P.O. Box 880
Ayer, MA 01432*

October 18, 2004

MEMORANDUM FOR INMATE POPULATION

FROM: David L. Winn, Warden

SUBJECT: CCC Placement Reconsiderations

Based upon the recent Goldings decision from the First Circuit, FMC Devens Unit Team staff will now be reviewing and reconsidering CCC placement recommendations, without regard to the 10% limitation implemented on December 20, 2002. The Goldings case will be applied to inmates with sentences of less than 60 months (those over 60 months were not affected by the 10% limit):

- who have already received an approved CCC placement less than 180 days; or
- who are due to be considered for an initial CCC referral based upon proximity to projected release date consistent with policy.

These reconsiderations and initial reviews will be done consistent with the practice and policy in existence at FMC Devens prior to December 20, 2002. Bureau policy and practice in existence at FMC Devens prior to December 20, 2002 provided for a maximum possible CCC placement up to 180 days. There was no guarantee that 180 day CCC placement would be automatically granted.

Due to practical considerations, any CCC placement already approved for a date prior to October 25, 2004, will not be reconsidered.

This practice will begin immediately and will continue until additional guidance is received from the Bureau of Prisons Central Office. The Bureau has proposed a new regulation governing all CCC placements. If the new regulation becomes effective, this regulation could cause a change in CCC placements. In addition, other court decisions may be issued which could also have an impact on CCC practice.

DOCUMENT D

| | | | |
|--|--|---|--------------------------|
| TO: David Dwyer, CCM JFK Building Suite 2200 Boston, MA 02203 | | FROM: David L. Winn, Warden | |
| Inmate Name Potts, William III | | Register Number 24866-038 | Date October 25, 2004 |
| Unit Manager/Mail ID Nancy Patterson | | Institution (Address and Phone Number) FMC Devens P.O. Box 880 Ayer, MA 01432 (978) 796-1000 | |
| 1. Release City: Windham, New Hampshire | | Supervision District: District of New Hampshire | |
| 2. Anticipated Release Date June 11, 2005 | Method Good Conduct Time | Verified by (ISM Staff) Steve Gagnon, ISM | |
| 3. Recommended (only one): a. Range <u>90 to 120 days</u> b. Date | 4. If a presumptive parole case, enter the date the pre-release record review progress report was submitted to the Parole Commission: <u>N/A</u> | | |
| 5. Statutory Interim Hearing Scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Waived | 6. Supervised Release <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Special Parole Term <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 7. Aftercare Supervision Drug Alcohol Mental Health Other Refer to Judgment and Commitment | | | |
| 8. CIM Case: No. | Assignment: N/A | | |

As CMC, I have reviewed the Request for Activity Clearance (404) and the SENTRY CIM Clearance and Separatee Data and I recommend the inmate be considered for CCC placement and clearance be granted by the Warden.
☐ Yes ☐ No Signature of CMC _____
 Upon signature of the Warden, I will update SENTRY to reflect CCC referral for range/date as listed in item 3 above.

NOTE: The CMC will update SENTRY to reflect specific dates and CCC location code upon notification of acceptance from the CCM.

| | |
|---|---|
| 9. If proposed District of Supervision differs from Sentencing District, has USPO approved? YES | 10. Does inmate have a financial obligation? Yes If yes, indicate type and how obligation will be paid in item 12. |
|---|---|

11. Additional Information, including status of any detainers or pending charge(s) and whether there is a substance abuse history. Inmate Potts has no known detainers or pending charges at this time. According to his PSI, inmate Potts advised that he first experimented with alcohol at the age of fifteen. He would drink a couple of beers or a couple of glasses of wine on occasion. He indicated never having a problem with alcohol. He denies ever experimenting with or using any controlled substances. He states that he has never received any treatment for alcohol abuse.

12. Specific release preparation/Pre-natal care needs. Inmate Potts has completed a \$100.00 Assessment Fee and has agreed to make \$250.00 quarterly payments toward a \$1,357,603.00 in Restitution imposed by the District of Massachusetts. He has completed the institution Release Preparation Program. He is assigned to regular duty status with no medical restrictions. There is no indication of any psychological or emotional dysfunction. He should be considered fully employable upon his release. Inmate Potts will need CCC placement to aid his lawful integration into society and to develop ties to the community. Due to the recent Goldings v. Winn decision within the First Circuit, we are requesting inmate Potts be reconsidered for Community Corrections Center placement beyond his pre-release date but not to exceed 120 days. Please review this request and issue the earliest available placement date.

| | |
|---|---|
| 13. For MINT Referrals, Date of Delivery: | 14. (a) For MINT Referrals, Projected Date of Return to Parent Institution: (B) Proposed guardian: |
|---|---|

| TO BE FORWARDED WITH THE REFERRAL FORM | NO. COPIES | TO BE FORWARDED TO THE REGIONAL TSM | NO. COPIES |
|--|------------|--|------------|
| BP-S210, Referral Form | 2 | BP-S210, Referral Form | 1 |
| Current Progress Report | 2 | Current Progress Report | 2 |
| Pre-sentence Report/Violation Report | 2 | Treatment Summary and Referral Form | 2 |
| Community Based Program Agreement | 2 | Drug Abuse Treatment Programs Agreement to Participate in Community Transition Programming | 2 |
| BP-339 CIM Case Information Summary (Non-Separation Cases) | 1 | | |
| USPO Acceptance Letter | 2 | | |
| Copy of Latest Notice of Action | 2 | | |
| BP-351 Medical Evaluation for Transfer of Inmates to CCC Type Facility | 2 | | |
| Judgment & Commitment Order | 2 | | |
| Statement of Responsibility | 2 | | |

* If the inmate has a diagnosed, ongoing medical condition, such as diabetes or coronary disease, send any pertinent medical records.

Record Copy - CCM; Copy - Institution File; Copy - USPO Sentencing District; Copy USPO District of Supervision

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